

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>BARTON M. BUETOW,</p> <p>v.</p> <p>Respondent:</p> <p>JEFFERSON COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 49154</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on August 4, 2008, Diane M. DeVries and Lyle D. Hansen presiding. Petitioner appeared pro se. Respondent was represented by James Burgess, Esq. Petitioner is protesting the 2007 actual value of the subject property.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**4150-4152 Kipling Street, Wheat Ridge, Colorado
(Jefferson County Schedule No. 043018)**

The subject property consists of two single-family residential improvements situated on a parcel containing a total of 5.656 acres more or less. The first single-family residential improvement is an average quality, ranch-style home, built in 1946. The residence has a total 1,150 square feet of living area, 2 bedrooms, 1 ¾ bathrooms, and a small covered porch. The second single-family residential improvement is an average quality, ranch-style home, built in 1930. The residence has a total of 803 square feet of living area, 3 bedrooms, 1 bathroom, and a small loft area. The property also has a 1,008-square-foot barn that is utilized as a studio or office living area along with a portion of the building utilized as storage. The second single-family residence has had some remodeling accomplished in 2004.

Based on the market approach, Petitioner presented an indicated value of \$190,000.00 for the subject property.

Petitioner presented seven comparable sales ranging in sales price from \$120,000.00 to \$136,000.00 and in size from 1,023 to 1,386 square feet. After adjustments were made, the sales ranged from \$165,844.00 to \$198,236.00.

Petitioner testified that the subject is located in a floodway as identified by the City of Wheat Ridge, Colorado. Petitioner testified that if the improvements were demolished, he could re-build to existing structure size only, and that he cannot renovate existing structures to code because of restraints in the floodway requirements. He further testified that if the existing improvements were destroyed to a point exceeding 50% of market value, he couldn't re-build the improvements further stating that he is stuck with what he has.

Petitioner is requesting a 2007 actual value of \$190,000.00 for the subject property.

Respondent presented an indicated value of \$460,000.00 for the subject property based on the market approach.

Respondent presented three comparable sales ranging in sales price from \$265,000.00 to \$555,000.00 and in size from 816 to 1,678 square feet. After adjustments were made, the sales ranged from \$451,890.00 to \$538,280.00.

Respondent's appraiser testified that she compared the comparable sales to the subject's first single-family residence which is the newer of the two residences. The second residence is included in the adjustment grid as a second improvement.

Respondent assigned an actual value of \$392,890.00 to the subject property for tax year 2007.

Respondent's appraiser testified that of the seven sales presented by Petitioner, four of the sales were in foreclosure, one was a townhome, one was located in Golden, and one was a "fix-up" property sold "as is" and not an arm's-length transaction.

Respondent's appraiser testified that Jefferson County had accounted for the subject's location in the floodway by adjusting the assigned land value of \$531,900.00 downward to \$289,090.00.

Petitioner's Exhibit B, titled *Article VIII. Floodplain Control, Sec. 26-807: Nonconforming Uses*, states that existing lawful uses of a structure that are not in conformity with the regulations' provisions may be continued so long as that use is not expanded or enlarged, and no substantial improvement to that nonconforming structure shall be allowed.

Respondent presented sufficient probative evidence and testimony to prove that the subject property was correctly valued for tax year 2007.

The Board agrees with Respondent's conclusion of value of \$460,000.00. The three comparable sales were located in the same general vicinity as the subject. The adjustments

accomplished on the three comparable sales were accepted by the Board as being reasonable and plausible. Respondent's assigned value is well below the indicated value which accounts for any affect the floodway location has on the subject's value.

ORDER:

The petition is denied.

APPEAL:

If the decision of the Board is against Petitioner, Petitioner may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provisions of Colorado Revised Statutes ("CRS") section 24-4-106(11) (commenced by the filing of a notice of appeal with the Court of Appeals within forty-five days after the date of the service of the final order entered).

If the decision of the Board is against Respondent, Respondent, upon the recommendation of the Board that it either is a matter of statewide concern or has resulted in a significant decrease in the total valuation of the Respondent county, may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provisions of CRS section 24-4-106(11) (commenced by the filing of a notice of appeal with the Court of Appeals within forty-five days after the date of the service of the final order entered).

In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law within thirty days of such decision when Respondent alleges procedural errors or errors of law by the Board.

If the Board does not recommend its decision to be a matter of statewide concern or to have resulted in a significant decrease in the total valuation of the respondent county, Respondent may petition the Court of Appeals for judicial review of such questions within thirty days of such decision.

Colo. Rev. Stat. § 39-8-108(2) (2008).

DATED and MAILED this 22nd day of August 2008.

BOARD OF ASSESSMENT APPEALS

Diane M. DeVries
Diane M. DeVries

Lyle D. Hansen
Lyle D. Hansen

This decision was put on the record

AUG 22 2008

I hereby certify that this is a true
and correct copy of the decision of
the Board of Assessment Appeals.

H. Flanery
Heather Flanery

